

***COLORADO DEPARTMENT OF NATURAL RESOURCES
PERFORMANCE PAY PROGRAM***

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Introduction

This introduction highlights the major components of a statewide performance pay system developed in the fall of 2000 in response to SB 00-211. The statewide performance pay system consists of three components: performance management, performance-based pay, and dispute resolution.

The statewide plan was developed in August 2000 under the direction of an Executive Oversight Committee appointed by the Governor's Office with input from various stakeholders. This document required state departments to develop their own performance pay programs and program documents, describing how they would implement the new statewide performance pay system at the department level.

Representatives from each DNR division and the Executive Director's Office participated in reviewing the requirements of the new Performance Pay System that would encompass the overall plan development for the Department. This workgroup addressed performance pay allocation and distribution, developing a new planning and evaluation form to reflect the requirements of the new program, training requirements for supervisors, and the dispute resolution procedures and processes.

One area that the workgroup determined did not have to be revisited was performance management. The performance management planning requirements submitted to the Department of Personnel and Administration under the previous program were deemed to meet the performance management standards required under the new performance pay program.

The first payouts in July 2002 were completed successfully. There were no payouts in 2003. With changes to DPA rules and guidelines effective in 2004, DNR's performance pay program document has been reviewed and revised.

Evaluation Cycle

In response to recent changes in the Personnel Director's Procedures, DNR will change its evaluation cycle to correspond to the State's common appraisal cycle. Beginning April 1, 2005, the performance appraisal period will move to the statewide standard, a 12-month period from April 1 to March 31 each year.

Specifics are as follows:

- Finalized performance plans are due to employees by April 30 (or within the first month of employment for new employees). A planning session between the supervisor and employee must occur during the preparation of performance plans, and before the performance plans are presented to reviewers and employees.
- All performance plans are subject to review by a performance plan reviewer.
- Coaching and feedback to employees is required throughout the rating period in order to avoid surprises during the final rating.
- All supervisors must conduct at least one documented interim appraisal for each employee during the course of the evaluation year.
- If an employee moves to another appointing authority or department during a performance cycle, an interim overall evaluation shall be completed and delivered to the new appointing authority or department.
- An initial evaluation conference (annual review) between the employee and the supervisor should occur before April 30 to determine employee accomplishments and to assist in completing the next year's performance plan. The use of multi-source assessments (e.g. peer assessments and customer feedback) should be considered where feasible.
- An initial quantitative appraisal must be submitted to the next-level reviewer. It is suggested that the appraisal be delivered to the reviewer by April 30.
- The reviewers will consider the accuracy, internal equity, quality, and consistency of initial quantitative appraisals, and provide direction to supervisors regarding them, before supervisors meet with employees to discuss the final quantitative appraisals. Reviewers should provide this direction to supervisors by May 15.
- Supervisors must meet with employees to discuss final quantitative appraisals before submitting final appraisals to DNR HRO. It is suggested that supervisors meet with employees before May 31.
- Final appraisals must be signed by the employee, supervisor, and reviewer, and delivered to the HRO by May 31.

- Prior to the July payroll deadline, HRO will transfer the performance pay information to the EMPL system for transmittal to CPPS (payroll system).

NOTE: If a supervisor fails to plan and/or evaluate an employee's job performance, a reviewer is responsible for completing the plan and/or evaluation. If the reviewer fails to plan and/or evaluate in a timely manner, the reviewer's supervisor is responsible for completing the plan and/or evaluation and on up the chain of command until the plan and/or rating is completed as required by law. In the event that a supervisor fails to evaluate an employee, by default that employee is deemed to have a rating of "satisfactory" until a final rating can be given.

Rating Levels

Beginning April 1, 2005, the performance rating levels will be defined by a statewide standard, as follows:

- **Level 4 (Outstanding)** This rating represents consistently exceptional and documented performance or consistently superior achievement beyond the regular assignment. Employees make exceptional contribution(s) that have a significant and positive impact on the performance of the unit or the organization and may materially advance the mission of the organization. The employee provides a model for excellence and helps others to do their jobs better. Peers, immediate supervision, higher-level management and others can readily recognize such a level of performance.
- **Level 3 (Commendable)** This rating level encompasses the accomplished performers who consistently exhibit the desired competencies effectively and independently while frequently exceeding expectation, standards, requirements, and objectives of the job assigned. Their work has a documented impact beyond the regular assignments and performance objectives that directly supports the mission of the organization.
- **Level 2 (Satisfactory)** This rating level encompasses a range of expected performance. It includes those employees who exhibit competency in the work behaviors, skills, and assignments for the job as well as those employees who are successfully developing in the job. These employees are meeting all the expectations, standards, requirements, and objectives on their performance plan and, on occasion, may exceed them. This is the employee who reliably performs the job assigned.
- **Level 1 (Unsatisfactory)** This rating level encompasses those employees whose performance does not consistently and independently meet expectations set forth in the performance plan, as well as those employees whose performance is clearly unsatisfactory and consistently fails to meet requirements and expectations.

Marginal performance requires substantial monitoring to achieve consistent completion of work, and requires more constant, close supervision. Though these employees do not meet expectations, they may be progressing satisfactorily toward a level 2 rating and need to demonstrate improvement in order to satisfy the core expectations of the position.

Core Competencies

The Performance Pay Program for DNR will use the “Core Competencies” as developed by the Department of Personnel and Administration. Employees must receive a pass on each of the Core Competencies in order to be considered for a performance salary adjustment. Every employee must be rated on these competencies, and each competency must be rated as passing in order for the employee to be eligible to receive a performance salary adjustment, regardless of the points received on the evaluation.

The Core Competencies are considered to be basic requirements common to all state employees. The supervisor must check each competency if the employee meets the criteria in a satisfactory manner. If any competency is not checked, a written explanation must be provided to the employee. The Core Competencies are “pass/fail.”

The Core Competencies are:

- Communication
- Interpersonal Relations
- Customer Service
- Accountability
- Job Knowledge

All supervisors shall have a core competency in their own performance plans that evaluate their performance management of their employees. Furthermore, all employee performance plans should align with Department/Division goals and objectives.

Accountability and Sanctions

As required in the State PPS Plan, failure by any supervisor, including supervisors in the Senior Executive Service (SES), to provide timely plans and evaluations in accordance with established timelines will result in a corrective action and their ineligibility for a performance salary adjustment. Furthermore, supervisors who fail to complete evaluations within 30 days of the corrective action are subject to Section 24-50-104 (c.5), C.R.S. (current statutory requirement for increments of one week suspensions for all supervisors failing to provide timely plans or evaluations). Additional sanctions, including disciplinary demotion, may be imposed for repeated failure to complete evaluations by July 1.

Allocation

Allocation is the term used to describe the method whereby the Department apportions the dollars in the DNR Performance Pay Program (PPP) among its divisions, including the Executive Director’s Office (EDO).

DNR will allocate funds to divisions and EDO based on the amount of funds appropriated by the Joint Budget Committee of the Colorado Legislature. The allocation is based on the previous December's base salary calculations for the salary survey.

With the implementation of this approach the following will be applicable:

- Each division will receive an allocation proportional to its December payroll
- Each Division's PPP monies will include funds only from its own funding sources, whether general, cash, federal, etc.
- All allocations are limited by the funding limitations and restrictions set by the General Assembly.

Distribution

Distribution is the term used to describe the method whereby each Division divides its allocated pot of PPP money to the employees of that Division.

Prior to the payment of annual performance salary adjustments, the Director of the Department of Personnel and Administration will specify and publish the percentage ranges for performance levels based on the available statewide performance fund.

Components of DNR's distribution model are as follows:

- Any employee who receives a rating other than "passing" on any of the "core competencies" will not be eligible for a salary adjustment.
- Level 1 (Unsatisfactory) performers will receive no salary adjustment. A level 1 rating denoting unsatisfactory performance will result in a performance improvement plan or a corrective action
- Level 2 (Satisfactory) and 3 (Commendable) performers will only be eligible for base-building salary adjustments, and only up to the grade maximums for the job classes for those performers. Salary adjustments for these levels will fall within the ranges set by the State Personnel Director each year.
- Level 4 (Outstanding) employees will receive an award, regardless of salary in relation to range maximum. These salary adjustments will be base-building up to the maximum of the employee's pay range, and paid as a lump-sum non base-building award above that point. This level represents only those employees who consistently exhibit exceptional performance or achievements beyond the regular assignment. Salary adjustments for this level will fall within the ranges set by the State Personnel Director each year.
- Level 4 employees who are at the statutory lid may receive a non-base building award.

- Salary adjustments will be based on final overall rating of record.
- Employees in the Senior Executive Service are paid according to their contracts and are ineligible for performance pay.
- Temporary employees are also paid according to their contracts. Hence, temporary employees are not eligible for performance pay.
- DNR defines X to be the amount of salary adjustment, as a percent of salary, which will be paid to a level 2 employee. DNR defines Y to be the amount of salary adjustment, as a percent of salary, which will be paid to a level 3 employee. DNR defines Z as the amount of salary adjustment, as a percent of salary, which will be paid to level 4 employees. X, Y, and Z must fall within the ranges set by the State Personnel Director. The values of X, Y, and Z will be determined in each division, and will be a function of the distribution of performance scores and DNR's PPP funding allocation to that division. By adjustment of the values of X, Y, and Z, all of the funds can be distributed, within a few dollars of the allocated amount.
- Divisions must award at least a one-tenth of one percent of base salary to satisfactory (Level 2) performers.
- Divisions must minimize the extent to which they fund performance-based salary adjustments out of base personal service funds. Thus, divisions must continue to adjust their award percentages downward until: (1) they can fund a salary adjustment structure out of their original allocation, or; (2) they are at the allowed pay structure minimum as set by this plan and the State Personnel Director for that year. If at the minimum allowed pay structure, a division will be allowed to fund the difference out of their base personal services appropriation(s).
- If a division sets all of its salary adjustment percentages at the DPA maximum levels and still has spending authority left over, the Executive Director may reallocate this amount to another division.
- Quotas or forced distribution processes for determining the number of ratings in any of the four performance levels shall not be established.
- Source of funds (e.g. cash or general), method of funding (e.g. appropriated or memorandum of understanding), and length of state service shall not be criteria for distribution.
- Neither DNR nor its divisions will pre-announce values of X, Y, or Z. However, in no case will the difference between levels be less than 0.5%.
- All distributions of salary adjustments are limited by the funding restrictions and limitations imposed by the General Assembly.

- DNR will encourage the use of non-salary incentives currently available in the state personnel system to supplement salary-based performance salary adjustments. Additionally, DNR will communicate that teamwork can be measured as a component of an individual's performance plan and salary adjustments (base and non-base) proportioned appropriately.

Payout

The payout process will be conducted as follows:

- All performance salary adjustments are effective July 1 and will be paid from the cost center of record as of that date, regardless of where the employee was working when the award was earned. An employee must be employed on July 1 to receive payment.
- Performance pay notification to employees eligible for salary adjustments will be provided during the July pay period.
- An employee granted an annual performance salary adjustment shall not be denied the adjustment because of a corrective or disciplinary action issue for an incident after the close of the previous performance cycle.
- Employees who are eligible for a base building salary adjustment will receive an adjustment to their monthly pay that begins in July and continues thereafter as a continuing level of that employee's base salary.
- If base pay is at grade maximum or in saved pay above the maximum, the employee is ineligible for a performance salary adjustment.
- Employees will not have an option concerning the timing of the performance salary adjustments. All base-building salary adjustments will be applied as an increase to base pay commencing with the July payroll. All one-time awards will be paid as a lump sum to employees receiving them in the July paycheck.
- Salary adjustments to level 4 employees will be base-building up to the maximum of the employee's pay range. Level 4 employees already at the maximum of their pay range will receive a one-time award paid in July.
- The salary adjustment to an employee who received final evaluations from more than one supervisor will be determined by prorating the ratings from each supervisor.
- Employees hired into the state personnel system during the performance cycle shall receive the performance salary adjustment specified for the level of performance attained.

Dispute Resolution Internal Process

A Request for Dispute Resolution can be initiated within seven (7) calendar days of receipt of or due date of performance plan, appraisal, interim evaluation or award. A Request for Dispute Resolution is limited to:

- The employee's individual performance plan or lack of plan at the time a plan is due.
- The employee's individual overall performance rating (final) at the time of the rating. The employee can also dispute the lack of a final evaluation.
- The application of DNR's performance pay program, processes, and policies to the employee's plan or evaluation.
- Disagreement regarding full payment of a salary adjustment as promised to an employee.

The Request for Dispute Resolution must be distributed to each of the following:

- The employee's supervisor
- The agency's appointing authority
- The Director of Human Resources

Matters that may not be disputed through this process are:

- The contents of the State and/or agency performance pay system/program.
- The amount of money allocated to an agency or work unit as part of the performance pay allocation pot.
- The ratings and dollars awarded to other employees (even in support for an issue during the review or appeal).
- The amount of the employee's individual base and non-base performance salary adjustment. If the amount differs from the agency's established program, the employee can raise the issue under the application of the process and policy as discussed herein.

The DNR Director of Human Resources will be responsible for reviewing whether the Request for Dispute Resolution falls within the issues deemed appropriate under performance pay. The Director of Human Resources shall render such decisions within ten calendar days.

During ten calendar days following the filing of a request for conflict resolution, the employee and supervisor are encouraged to pursue resolution through informal processes, including but not limited to:

- Meeting and discussing the issues with the supervisor and/or his/her supervisor.
- Mediation/facilitation using department resources.

The timeframes described below are suspended if the employee and supervisor agree, in writing, to pursue informal/alternative dispute resolution.

The supervisor's written response is due by day fifteen. Copies of this response are due to the employee, the division's appointing authority or designee, DNR's Director of Human Resources, and the panel upon designation.

By day twenty the employee may provide additional written information in response to the supervisor's response to the conflict. Copies are to be provided to the employee's supervisor, the appointing authority or designee, DNR's Director of Human Resources, and the panel upon designation.

If the conflict is not resolved between the employee and supervisor by day fifteen, both parties (the employee initiating the appeal and the supervisor) must designate a panel member and alternate to participate on a three-member dispute resolution panel. The employee's and supervisor's panel member will then collectively select a mutually agreeable third member of the panel by day twenty. If the two members are unable to agree on a third panel member, the Director of Human Resources shall make the selection.

Any current employee of DNR may participate as a panel member. The only employees who may not sit on the dispute resolution panel are employees of DNR's Human Resources Office and appointing authorities or their designees in the dispute resolution process. The primary role of the panel or appointing authority (or the designee) in this process is to review the rater's action in light of the agency's Performance Pay Program and process. The panel may not change the rating, the plan, or the process.

The employee's selected panel member is charged with convening the panel and for making any necessary arrangements (conference calls, meeting rooms, etc.). Oral presentations may be made to the panel if panel members decide they are necessary or useful in assisting them in making a decision.

Between day twenty and day twenty-eight the panel must review submitted statements and if necessary hear oral discussion. By day twenty-eight the panel must render its written decision and deliver it to the employee, the supervisor, the division's appointing authority or designee and DNR's Director of Human Resources.

In the event consensus among all panel members cannot be reached, a majority decision prevails. If at least two of the members of the panel cannot reach a mutually acceptable finding or decision, the disputing parties have two options:

1. They may agree to convene another panel, or

2. Refer the dispute to the appointing authority (or the appointing authority's designee) for a decision.

The panel's role is limited to review of the rater's judgment or action within the established performance pay process, considering only the facts surrounding the current evaluation.

- The panel cannot change the rating.
- The panel may instruct the rater to follow the plan or process, correct an error, or reconsider a rating or plan.
- The panel may also suggest informal/alternative dispute resolution processes.

The panel's decision is binding among the parties unless the employee desires review of the panel's decision by the appointing authority or his/her designee. The employee must request a review by the appointing authority within five calendar days of the panel's written decision. A written decision of the review by the appointing authority or his/her designee is due within fourteen days of the panel's decision. The appointing authority or his/her designee in the conflict resolution process is limited to the same parameters as the panel. Copies of this written decision must be filed with the employee, the supervisor and the Director of DNR's Human Resources Office.

General guidelines to be considered within this process are as follows:

- Informal resolution is encouraged and should be sought throughout this process.
- The use of facilitators to assist in clarifying issues or interest, mediators in some instances (e.g. planning and interim appraisal issues), and/or continuing dialogue between the supervisor and the employee, are some of the avenues available to the parties.
- A waiver of deadlines outside of the mediation process may be granted with each party's mutual consent and agreement of the panel.
- If either party or their representative fails to meet their obligations at any time within the process, the opposing party's position prevails.

External Review

Only those original issues involving the application of the department's performance pay program to the individual performance plan and/or evaluation, or full payment of a salary adjustment may advance to this stage.

- Within seven (7) calendar days from the date of the department's final decision, an employee may file a written request for review with the Director of the Department of Personnel and Administration at:

State Personnel Director
Attn: Appeals Processing
1313 Sherman Street, Room 122
Denver, CO 80203

- The request for external review shall include a copy of the Request for Dispute Resolution and the final panel/appointing authority decision. The director or designee shall select a qualified neutral third party. The neutral third party has 30 days to issue a written decision that is final and binding. This individual shall not substitute their judgement for that of the rater(s) or for the internal decision-makers in the agency.

Representation

Each party represents himself/herself in this process but may have assistance from another person. As set forth in the Department of Personnel's guidelines, no party has an absolute right to legal representation, but may have an advisor present. The parties are expected to represent and speak for themselves. Some participants may need assistance during the process; therefore, an advisor may assist the party by explaining the process, helping the person clarify and identify issues/concerns, preparing documentation, and attending meetings.

Retaliation against any person involved in the dispute resolution process is prohibited.

Training and Communication

Training will be available to managers and supervisors and will include detailed information about the elements of the DNR Performance Pay Program, development of performance plans, coaching and feedback, development and presentation of evaluations, and dispute resolution. In addition, the department will use its web site (DNR Insider) to communicate to employees about this program.